

## **Freedom of Information Act 2000 (Section 50) Environmental Information Regulations 2004**

### **Decision Notice**

**Date: 6 June 2011**

**Public Authority:** Forest of Dean District Council  
**Address:** Council Offices  
High Street  
Coleford  
Gloucestershire  
GL16 8HG

### **Summary**

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The complainant requested pre-planning application advice referred to in two planning applications. The Council provided some information but withheld other information under regulation 12(5)(f). The Commissioner has investigated and found that regulation 12(5)(f) is not engaged and accordingly he has ordered disclosure of the withheld information. The Commissioner has also identified a number of procedural breaches in the handling of the request.

### **The Commissioner's Role**

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1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.
2. The Environmental Information Regulations (EIR) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into the EIR.

## Background

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3. The requests in this case relate to pre-planning information referred to in two planning applications submitted by Brock Planning Consultancy ('BPC') on behalf of the Forestry Commission. Planning application number P1355/10/OUT refers to land adjoining Forest Road, Bream, Lydney GL15 6LX and planning application number P1354/10/OUT refers to land at 37 and 39 Woodgate Road, Mile End, Coleford, GL16 7QJ.

## The Request

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4. On 23 July 2010, the complainant wrote to the Council requesting information relating to pre-application discussions between the Council and the planning applicant referred to in planning application P1355/10/OUT.
5. The Council responded on 26 July 2010 stating that information about the progress of the planning application in question was available on its website.
6. On 30 July 2010, the complainant wrote a further letter to the Council re-iterating that her request was for pre-planning information not available on the Council website. She referred the Council to various references within the publicly available planning documents to pre-application advice having been sought and received by the planning applicant. In this letter the complainant referred to a statement in a separate but related planning application (reference P1354/10/OUT) submitted by the same applicant, for a different site. The complainant asked "which other sites/locations were being discussed between Brock and the FoD [Forest of Dean] personnel and to what degree were the development(s)". The complainant advised that the information she was seeking was not available on the public planning file.
7. The Council wrote to the complainant on 5 August 2010 stating that information about the progress of planning application P1354/10/OUT was available on its website.
8. The Council issued a further response on 12 August 2010 stating that the request dated 30 July 2010 had been considered in accordance with the EIR. The Council disclosed some information relevant to the request, which consisted of extracts of pre-application advice given by the Council in relation to sites at Forest Road and Woodgate Road. The Council stated that other information was held comprising of notes of a meeting between the Council and the planning applicant and letters

from the applicant to the planning officer. The Council stated that the information was exempt under regulation 13 of the EIR.

9. On 18 August 2010 the complainant requested a review of the Council's decision in relation to her request for information.
10. The Council responded on 10 September 2010 providing further information relating to the request, comprising of; parts of a letter dated 26 November 2009 from BPC to the Council, and a copy of handwritten notes in respect of a meeting held with BPC on 17 November 2009.
11. On 22 September 2010 the complainant submitted a six part request to the Council in relation to planning application numbers P1355/10/OUT and P1354/10/OUT. The complainant requested:
  1. "Your office has provided an extract of Brock Planning Consultancy (BPC) letter dated 26<sup>th</sup> November 2009, can I please be privy to the full content of the letter and any attachments rather than the extract provided, if not give reasons why?
  2. Can it be confirmed that the senior level meeting in November 2009 involving Messrs Williams/Gibbons/Chapman and BPC/Forestry Commissioner did not involve any other minutes of records beyond the vague handwritten notes you have provided? I ask this point noting that the BPC 26<sup>th</sup> November letter quite specifically seeks preliminary comment from Planning and copies of BPC proposals had been requested to be forwarded to Mr Gibbons, which they were; in the circumstances it seems inconceivable that there is not something else a little more formal on file representing both the 17<sup>th</sup> November meeting and the inquiries mentioned thereafter.
  3. As given in my letter of 23<sup>rd</sup> July, what is the full content of P2063/09 PREAPP as stated on the Application for Outline Planning Permission by BPC?
  4. The provided site plan for Bream show additional building sites marked B and C, that these sites exist on a plan implies there must have been debate about them and why they were put on hold in favour of the Forest Road Site, where is the record, who was involved and what was said, please can I have full details.
  5. The Senior Planning Officer is cited by BPC as saying that the Forest Rd and Mile End sites were identified as offering the greatest opportunities for development of housing, where are his records in which he compares the merits of various sites?

6. Apart from the three sites identified in Bream and the one at Mile End what other locations were discussed, including any considered/discarded options, as potential building sites. If your office is unable to release such information, please give reasons or if there were no other sites can you please confirm this".
12. The Council responded on 29 September 2010 to each of the six requests as follows:
    1. Remaining parts of the letter from BPC to the Council dated 26 November 2009 were exempt under regulation 12(5)(f).
    2. The meeting in November 2009 was attended only by the parties referred to and there were no other records other than the handwritten notes previously provided.
    3. All pre-application information relevant to P2063/09 PREAPP had been disclosed other than information withheld from BPC's letter to the Council dated 26 November 2009.
    4. No information held.
    5. No information held.
    6. The only information held in respect of additional sites was the information withheld from BPC's letter to the Council dated 26 November 2009.
  13. On 14 October 2010, the complainant requested an internal review in relation to her request dated 22 September 2010.
  14. The Council provided the outcome of its internal review on 27 October 2010 and upheld its decision not to release the full content of the letter from BPC to the Council dated 26 November 2009 by virtue of regulation 12(5)(f) of the EIR.

## **The Investigation**

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### **Scope of the case**

15. On 11 November 2010 the complainant contacted the Commissioner to complain about the way her request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
  - (i) Whether the Council held any additional information relating to her requests.

- (ii) Whether any information held by the Council should be disclosed.
16. On 9 February 2011 the Commissioner confirmed to the complainant that the scope of his investigation would be to determine what information the Council held relevant to her request dated 22 September 2010, and whether any information held should be disclosed. The Commissioner has therefore specifically considered:
- (i) Whether the withheld information contained in BPC's letter to the Council dated 26 November 2009 should be disclosed; and
  - (ii) Whether the Council holds any additional information relevant to the request in its entirety, and if so, whether the information should be disclosed.

### **Chronology**

- 17. The Commissioner wrote to the Council on 9 February 2011 and requested copies of the withheld information and further representations regarding its application of regulation 12(5)(f). The Commissioner also asked the Council for submissions to support its position that it did not hold any additional information relevant to the request. In addition to asking the Council about the searches it had conducted to locate the relevant information, the Commissioner also asked whether it had a business need to hold the requested information.
- 18. The Council responded to the Commissioner's enquiries on 24 February 2011.
- 19. The Commissioner wrote to the Council on 8 March 2011 to clarify a number of issues relating to the complaint. The Council responded on 10 March 2011.
- 20. The Commissioner wrote a further letter to the Council on 15 March 2011 to clarify the scope of the information it considered it held relevant to the request.
- 21. The Council responded on 25 March 2011 explaining how it had interpreted the request and how it had identified information relevant to the request.

## Analysis

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### Substantive Procedural Matters

#### Scope of information held relevant to the request

22. The Council informed the Commissioner that it had interpreted the request to be only for information relevant to the sites relevant to the two applications referred to in the complainant's request, P1355/10/OUT and P1354/10/OUT. However, the Council accepted that questions 5 and 6 of the request of 22 September 2010 related to information regarding additional sites considered during pre-application discussions between the Council and BPC; ie questions 5 and 6 broadened the scope of the request.
23. The Council agreed that the withheld information contained in BPC's letter of 26 November 2009, regarding additional sites, fell within the scope of the request. However, it did not accept that pre-application advice regarding the additional sites, provided by the Council in response to BPC's letter, fell within the scope of the request. In any event, the Council advised the Commissioner that if he considered the pre-application advice provided by the Council about the additional sites to fall within the scope of the request, it would seek to rely on regulation 12(5)(f) of the EIR, for the same reasons as the other withheld information.
24. The Commissioner accepts that the majority of letters from the complainant to the Council contained the subject heading of planning applications P1355/10/OUT and P1354/10/OUT. However, the Commissioner considers that the complainant made it clear on a number of occasions that she wanted information relating to other sites that were considered during pre-application discussions between BPC and the Council prior to the two planning applications being submitted. As well as referring to additional sites in her letter dated 20 July 2010, as detailed in paragraph 7 above, the Commissioner notes that parts 4, 5 and 6 of the request dated 22 September 2010 clearly refer to information about additional sites considered and/or discussed.
25. For the reasons set out above, the Commissioner considers that the information falling within the scope of the request encompasses all pre-application planning information held by the Council relevant to planning applications P1355/10/OUT and P1354/10/OUT which includes information about potential other sites discussed/considered at the pre-application stage. Based on the representations put forward by the Council, this comprises of :

- (i) The remaining withheld information contained within BPC's letter to the Council of 26 November 2009, including two ordnance survey maps which were attached to this letter; and
- (ii) The remaining withheld information contained within the planning officer's pre-application advice to BPC of 12 April 2010.

**Did the Council hold further relevant recorded information that is relevant to the request for information?**

26. Regulation 5(1) provides that - "Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request". The full text for regulations 2 and 5 of the EIR can be found at the legal annex.
27. The Commissioner is mindful of the Tribunal's decision in *Bromley v the Information Commissioner and the Environment Agency* (EA/2006/0072) in which it was stated that "there can seldom be absolute certainty that information relevant to a request does not remain undiscovered somewhere within a public authority's records". It was clarified in that case that the test to be applied as to whether or not information is held was not certainty but the balance of probabilities.
28. The Commissioner has also been assisted by the Tribunal's explanation of the application of the 'balance of probabilities' test in *Bromley*. To determine whether information is held requires a consideration of a number of factors, including the quality of the public authority's final analysis of the request, the scope of the search it made on the basis of that analysis, the rigour and efficiency with which the search was then conducted and any other relevant reasons offered by the public authority to explain why the information is not held.
29. The Commissioner has applied this test to this case and has also considered the arguments of both sides.
30. The complainant has argued that further recorded information must be held because:
  - In the formal planning application P1355/10/OUT the applicant made a number of references to pre-application correspondence, citing Council officials' advice, meetings, discussions and site visits.
  - In the formal planning application P1355/10/OUT, the applicant refers to the Senior Planning Officer in the Council having identified the site in question as one offering the greatest opportunities for



- development, which suggest that there were discussions/records comparing the merits of various sites.
- The site plan which was disclosed by the Council on 10 September 2010 shows additional sites highlighted as B and C, which suggests that there had been some debate/discussion about them.
  - The notes of the meeting held between BPC and the Council on 17 November 2009 are brief handwritten notes. The complainant believes that given the seniority of the Council staff involved in the meeting and the significance of the proposed developments, she feels it inconceivable that more formal notes or minutes were not produced.
31. The Council confirmed to the Commissioner that other than the remaining withheld information referred to in paragraph 25 of this notice, it does not hold any further information falling within the scope of the request.
32. The Council advised the Commissioner of the process by which pre-application advice was sought and provided in this case. It explained that pre-application advice was sought initially at a meeting between the Council and BPC on 7 November 2009, the handwritten notes of which were disclosed on 10 September 2010. A letter was sent by BPC, as a follow-up to this meeting, on 26 November 2009, parts of which were disclosed. This letter covered both sites for which planning applications were subsequently submitted and identified other potential sites. Pre-application planning advice was provided the Council to BPC in an email dated 12 April 2010, extracts of which were disclosed on 12 August 2010.
33. The Council advised that it did not normally carry out site visits in relation to pre-application advice. However, in this case site visits were carried out around the start of 2010 in order for the case officer to familiarise himself with the locations, as they were not areas within his local knowledge. The Council confirmed that no notes were made by the case officer in respect of these site visits.
34. The Council explained that it undertook a comprehensive search of both manual and electronic records within its planning department and countryside team, which the Council confirmed are the only departments that would potentially hold any relevant information. The Council confirmed that it consulted with relevant staff and officers and whilst there may have been further informal discussions with the applicant, no further recorded information was held; other than that which had been disclosed and the withheld information identified at paragraph 25 of this notice.



35. The Council confirmed that the planning department made a search of the CAPs system which is the database which holds all planning information, including pre-application advice. Searches were also carried out to establish information held on personal computers of relevant officers within the planning department. The Council advised that electronic searches were carried out using the following search terms; the planning application reference numbers, the applicant details and the site addresses.
36. The Council advised that the pre-application reference numbers which have been referred to in this case (for example – P2063/09 PREAPP in the request dated 22 September 2010) are purely electronic numbers which the Council creates in order to record how many pre-application requests for advice it has dealt with during any particular period. The Council confirmed that no physical file for any pre-application advice was created in this case. The Council also advised that whilst no physical pre-application file was created, the physical files relating to the relevant two planning applications were searched to establish whether any pre-application advice had been copied onto the files.
37. The Council stated that no additional information has even been held and no destruction of any information relevant to the request had taken place. The Council also confirmed that there is no statutory or business requirement for it to retain the requested information as pre-application advice is a voluntary service and does not form part of the formal planning process.
38. In view of the explanations provided about the checks and searches made by the Council, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold any additional information falling within the scope of the request other than that already provided to the complainant, and the remaining withheld information identified at paragraph 25.

## Exceptions

39. Regulation 12(5)(f) states that a public authority may refuse to disclose information if its disclosure would adversely affect the interests of the person who provided the information where that person-
  - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
  - (iii) has not consented to its disclosure.

40. The Council considers that the withheld elements of BPC's letter to the Council of 26 November 2009, including the attachments to this letter and the Council's response to this letter dated 26 April 2010, are exempt from disclosure by virtue of regulation 12(5)(f).
41. The Council explained that the information it was withholding was supplied by BPC in the course of preliminary discussions about the possible development of a number of sites. The Council confirmed that pre-application planning discussions are carried out in confidence and are entered into voluntarily to enable informal discussions to take place. It stated that the withheld information was supplied voluntarily by the BPC, with an expectation that it would be held in confidence, and that BPC had not given consent to disclosure of the information.
42. The Commissioner looked at each item of information the Council claimed to be exempt under the exception at regulation 12(5)(f), in light of the specifications at sub paragraphs (i), (ii) and (iii), as detailed in paragraph 41 of this notice.
43. The Commissioner considers that the information in BPC's letter of 26 November 2009 and the maps attached to this letter was clearly supplied by BPC to the Council. The Commissioner accepts that there is no evidence that the third party in question was legally obliged to supply the requested information. He also accepts that the information was not supplied in circumstances that would entitle the Council to disclose it, apart from the EIR. The Commissioner also notes that the Council has stated that the third party has not consented to disclosure. Although the Council stated that the third party has not consented to disclosure, there is no evidence to suggest that the third party has in fact been contacted about this request and the possibility of disclosure under the EIR. When asked about this point, the Council advised that BPC had been consulted about disclosure by email, but it had no record of the email as it had been deleted. The Council also confirmed that when consulted about disclosure BPC had not made any representations in support of its refusal to provide consent.
44. The Commissioner also considers that the exception at regulation 12(5)(f) is applicable to the Council's email to BPC of 26 April 2010 which commented on the plans and proposals submitted by BPC. Although the document was created by the Council, the comments contained in it are inextricably linked to the information supplied by BPC in its letter to the Council of 26 November 2009. Again, the Commissioner accepts the Council's assurances that the information was volunteered in confidence and that BPC has not consented to its disclosure.

45. Having determined that sub-paragraphs (i) to (iii) of regulation 12(5)(f) are satisfied, the Commissioner has considered whether disclosure would adversely affect the provider of the information – that person being BPC and/or the Forestry Commission.
46. In terms of adverse affect of disclosure, the Council stated, in its refusal notice of 29 September 2010 that if the content of pre-planning discussions were disclosed it would be likely to deter “future investors from engaging with the Council at the early stage of the planning process”. The Council also stated that disclosure “may falsely raise public hopes or fears about potential developments in the area. This would enable local residents to attempt a pre-emptive strike against a potential application.”
47. The Commissioner considered the representations put forward by the Council in its internal review to be somewhat generic arguments about the adverse affect of disclosure. In his letter to the Council dated 9 February 2011, the Commissioner pointed out that regulation 12(5)(f) could only apply where disclosure would adversely affect the interests of the person who supplied that information. The Commissioner asked the Council to further explain its reasoning for determining that this part of the exception was engaged, with specific reference to the adverse effect on the provider of the information (BPC and/or the Forestry Commission).
48. In its response to the Commissioner dated 24 February 2011, the Council advised that the selling of any Forestry Commission land is a particularly contentious issue in the Forest of Dean. The Council referred the Commissioner to media coverage relating to public protest in respect of the recent Government announcement about the proposal to sell off forestry land. The Council stated that when the two planning applications referred to in this notice were submitted, the public became heavily involved in the application process.
49. In relation to the adverse affect on the provider of the information, the Council stated that:

“to supply all the pre-application advice, which identifies potential additional sites for development owned by the Forestry Commission, would falsely raise public fear and would enable local campaigners to attempt a pre-emptive strike against proposed applications. Releasing of this information would make it difficult for both the Council and the Forestry Commission to manage public expectation. It is on this basis that it is felt to release the information would adversely affect the supplier, namely the Forestry Commission”

50. It is the Commissioner's view that the purpose of this exception is to protect the voluntary supply to public authorities of information that might not otherwise be made available. It operates on the principle that if those who provide information on a voluntary basis suffer as a consequence of providing that information, they will not be so willing to volunteer information in the future. Therefore, to engage the exception it is necessary to demonstrate that disclosure would result in some adverse affect on the provider of the information. In other words, only the interests of the provider can be considering when determining whether the exception is engaged. The public authority's own interests are excluded from consideration when deciding whether the exception applies.
51. The Commissioner is conscious that the threshold to engage an exception under regulation 12(5) of the EIR is a high one compared to the threshold needed to engage a prejudice based exemption under the Act:
- Under regulation 12(5) for information to be exempt it is not enough that disclosure of information will have an effect, that effect must be 'adverse'.
  - Refusal to disclose information is only permitted to the extent of that adverse effect – i.e. if an adverse effect would not result from disclosure of part of a particular document or piece of information, then that information should be disclosed.
  - It is necessary for the public authority to show that disclosure 'would' have an adverse effect, not that it may or simply could have an effect. With regard to the interpretation of the phrase 'would' the Commissioner has been influenced by the Tribunal's comments in the case *Hogan v Oxford City Council & Information Commissioner* (EA/2005/0026 & 0030) in which the Tribunal suggested that although it was not necessary for the public authority to prove that prejudice would occur
  - beyond any doubt whatsoever, prejudice must be at least more probable than not
52. It is the Commissioner's view that the Council has not, to date, demonstrated how disclosure of this information would adversely affect the interests of the third party concerned. Although it stated that disclosure would raise public concern and enable the public to attempt a pre-emptive strike, which would make managing public expectation difficult for the Council and the Forestry Commission, the Council has provided no specific arguments or evidence to support this argument or any evidence of the likelihood of this adverse affect on the Forestry

Commission. The Council has not provided any arguments in relation to how disclosure would adversely affect the interests of BPC.

53. As the Council has not provided any detailed arguments to support the application of this exception, or indeed evidence to confirm that the third party objects to disclosure, the Commissioner is not persuaded that disclosure would adversely affect the interests of the provider, either the Forestry Commission or BPC. The Commissioner has therefore concluded that the Council has not demonstrated that regulation 12(5)(f) of the EIR is engaged in this case. He has not therefore gone on to consider the application of the public interest test.

## **Procedural Requirements**

### **Regulation 5**

54. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request.
55. As the Commissioner has concluded that regulation 12(5)(f) is not engaged in respect of the withheld information, he considers that the Council breached regulation 5(1) in failing to make this information available on request, and regulation 5(2) for failing to make it available within 20 working days following receipt of the request.

## **The Decision**

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56. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the EIR.
- It incorrectly applied the exception at regulations 12(5)(f) in order to withhold the information.
  - It breached regulation 5(1) by not making the information available to the complainant.
  - It breached regulation 5(2) by not making the information available to the complainant within 20 working days.

## **Steps Required**

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57. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

- Disclose a copy of the withheld information referred to in paragraph 26 of this Notice to the complainant.

58. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

## **Failure to comply**

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59. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Right of Appeal

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60. Either party has the right to appeal against this Decision Notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

61. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.

62. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Dated the 6<sup>th</sup> day of June 2011**

**Signed** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**



## Legal Annex

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### **Regulation 5 - Duty to make available environmental information on request**

**Regulation 5(1)** Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

**Regulation 5(2)** Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.

**Regulation 5(3)** To the extent that the information requested includes personal data of which the applicant is the data subject, paragraph (1) shall not apply to those personal data.

### **Regulation 12 - Exceptions to the duty to disclose environmental information**

**Regulation 12(1)** Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if –

- (a) an exception to disclosure applies under paragraphs (4) or (5); and
- (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

**Regulation 12(2)** A public authority shall apply a presumption in favour of disclosure.

**Regulation 12(3)** To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.

**Regulation 12(4)** For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

- (a) it does not hold that information when an applicant's request is received;
- (b) the request for information is manifestly unreasonable;

- (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
- (d) the request relates to material which is still in course of completion, to unfinished documents or to incomplete data; or
- (e) the request involves the disclosure of internal communications.

**Regulation 12(5)** For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –

- (a) international relations, defence, national security or public safety;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
- (c) intellectual property rights;
- (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
- (f) the interests of the person who provided the information where that person –
  - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
  - (iii) has not consented to its disclosure; or
- (g) the protection of the environment to which the information relates.